

WASHINGTON COUNTY JUSTICE COURT
87 NORTH 200 EAST #301, ST. GEORGE, UT 84770
PHONE: 435-634-5728/FAX: 435-656-3003 REVISED 8-18-2011

EXPUNGEMENT PACKET: INSTRUCTIONS AND 3 FORMS

The statutory authority governing expungement is 77-40-101 to 113 of the Utah Code of Criminal Procedure.

STEPS TO OBTAIN EXPUNGEMENT

1. Obtain Certificate of Eligibility from BCI:

Contact the Department of Public Safety Bureau of Criminal Identification (BCI) by phone at 801-965-4445 or at www.bci.utah.gov to get an Application for Certificate of Eligibility and follow their instructions.

2. Obtain Expungement Packet and copy of court docket from the proper court.

Fill out 3 forms in expungement packet:

Form 1: Petition for Expungement and Sealing of Record (Sign Petition before a notary);

Form 2: Prosecutor's Receipt, Review, Consent and Waiver of Hearing/Victim Status

Form 3: Order for Expungement and Sealing of Record.

3. Mail or hand-deliver the following to Washington County Justice Court:

- a. Forms 1, 2 and 3 from packet—Petition, Prosecutor's Receipt and Order;
- b. Certificate of Eligibility from BCI,
- c. ☐ \$171 payment (includes \$135 expungement fee plus costs for certified copies \$36.00) ,
or ☐ No fee (due to dismissal of charges or acquittal on cases with Certificates of Eligibility issued prior to 5-11-10).
- d. If sent by mail, include a legal-size self-addressed/stamped envelope for court to send you a receipt for payment along with copies of your Petition, Prosecutor's Receipt and Certificate of Eligibility. If hand-delivered to court, you will be given copies of these forms. The Court holds your original Petition/Certificate of Eligibility/Order for Expungement for 60 days. You proceed to next step.
- e. Include 9”X12” self-addressed/stamped envelope to mail you six copies to distribute expungement.

4. Mail or hand-deliver the following to appropriate prosecutor marked below:

☐ **St. George City Attorney, 175 East 200 North, St. George, Utah 84770.**

☐ **Washington County Attorney, 33 N 100 W Suite 200, St. George, Utah 84770.**

☐ **Ivins City Attorney, 33 N 100 W Suite 200, St. George, Utah 84770.**

☐ **Apple Valley City Attorney, 175 North 200 East, St. George, Utah 84770.**

- a. Copy of Petition for Expungement and Sealing of Record (shows court's date-received stamp, which will be held for 60-day waiting period);
 - b. Copy of Certificate of Eligibility from BCI;
 - c. Copy of receipt for payment of Expungement fee (as proof to prosecutor that these copies are provided by the Court);
- Prosecutor's Receipt, Review, Consent and Waiver of Hearing (prosecutor date-stamps this form and starts a 30-day waiting period).

VICTIM STATUS: Prosecutor will review Petition for Expungement and determine if there is a victim. If there is a victim, the prosecutor will notify the victim that you have petitioned to expunge the case. The prosecutor and victim, if applicable, have 30 days from when the prosecutor receives your petition to submit any objections or recommendations in writing to the proper Justice Court.

If the Court receives any written objections within the 30 days, an Expungement Petition Review date will be set and notice will be sent to the prosecutor, to any victim(s) and to you (petitioner-defendant). This is the chance for all parties to orally present their comments and/or arguments regarding expungement petition.

If there are no objections filed within the 30 days, the prosecutor will sign Prosecutor's Consent and Waiver of Hearing/Victim Status. On the same form, Prosecutor will mark a box under Victim Status indicating whether there is no victim, or whether there is a victim who was notified and has no objections. Prosecutor will submit form to the Court.

If no objections are received and no Prosecutor's Consent and Waiver of Hearing is received within 60 days from Court having received the original Petition, the clerk will present your original Petition and Certificate of Eligibility to the Justice Court Judge without further hearing or opportunity to object. Judge will review and, if appropriate, sign Order for Expungement of Record.

5. When the Order for Expungement is signed by the Court, 6 certified copies of the Order for Expungement and Sealing of Record and copies of BCI's Certificate of Eligibility are prepared for you to distribute to concerned parties. The Court provides a list of names and addresses showing those agencies concerned with your case. It is your responsibility to mail or hand-deliver the certified copies to the agencies.

Your original Petition and Order for Expungement become the property of the Court and are added to the case file prior to the sealing of your record in Washington County Justice Court.

* * * * *

To expunge means to omit, erase, or obliterate. Once expunged, the matter will be treated as if the record never existed. You may respond to any inquiry as though the incident did not occur.

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PHONE: (435) 634-5728/FAX: (435) 656-3003

Petitioner/Defendant) PETITION FOR EXPUNGEMENT
Name: _____) AND SEALING OF RECORD
Address: _____) Case No. _____
_____) Caselle Case No (if any) _____
Date of Birth: _____) Citation/Information No. _____

PETITION

Petitioner, pursuant to U.C.A. 77-40-107, as amended, hereby petitions this Court for an order of expungement and sealing for any and all records relating to the following offense(s) arising out of the same criminal episode:

Ct 1 _____ an ☐ Infraction or a Class ☐ B ☐ C Misdemeanor,
Ct 2 _____ an ☐ Infraction or a Class ☐ B ☐ C Misdemeanor,
Ct 3 _____ an ☐ Infraction or a Class ☐ B ☐ C Misdemeanor.

IN SUPPORT OF SAID PETITION, THE PETITIONER AVOWS THAT:

1. Petitioner was ☐ cited ☐ arrested/detained on _____ (date) by ☐ St. George Police Department or ☐ _____ (law enforcement agency) and/or charges were filed in this court on _____ (date) under the above case number.
2. The offense(s) cited is not a capitol, first-degree or violent felony as defined in U.C.A 76-3-203.5(1)(c)(i); an automobile homicide felony violation of Subsection 41-6a-501(2); a registerable sex offense as defined in Subsection 77-27-21.5(1)(n);
3. No proceeding involving a crime is pending or being investigated in any jurisdiction against petitioner;
4. The petitioner has not had any previous felony criminal record expunged;
5. A CERTIFICATE OF ELIGIBILITY from the Bureau of Criminal Identification (BCI) is attached to this petition and indicates that petitioner has no record of expungement with BCI;
6. The appropriate time period has elapsed (check one/both of the following:) ☐ TO EXPUNGE ARREST DETENTION RECORDS: Petitioner was arrested with/without a warrant and 30 days has passed with no intervening arrests, and one of the following occurred: court charges were not filed; proceedings were dismissed with prejudice, petitioner was discharged without a conviction and no charges were refiled against petitioner within 30 days; same was acquitted at trial; or the record of any proceeding against petitioner has been sealed. ☐ TO EXPUNGE COURT RECORDS: The following time has elapsed after release from incarceration, parole or probation, whichever occurred last, after petitioner was convicted of a criminal offense: 7 years if a felony; 5 years if a Class A Misdemeanor; 10 years if an alcohol-related traffic offense under Title 41; 4 years if a Class B misdemeanor; or 3 years if any other misdemeanor or infraction..
7. No proceeding involving a crime is pending against the petitioner;
8. The fee to process the expungement order, if required, has been paid to the court or an Affidavit of Impecuniosity has been filed with the court; and
9. A copy of the petition and the attached certificate will be served upon the prosecuting attorney for this jurisdiction.

Under penalty of perjury, I avow the above statements to be true.

DATED: _____

Petitioner/Counsel for Petitioner

STATE OF UTAH) ss.
COUNTY OF _____)

SUBSCRIBED AND SWORN BEFORE ME THIS _____ DAY OF _____, 20____.

Notary Public residing at _____.

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Petitioner/Defendant

Name: _____)
)
Address: _____) PROSECUTOR'S RECEIPT
) REVIEW, CONSENT AND
) WAIVER OF HEARING/
) VICTIM STATUS
Date of Birth: _____)
) Case No. _____

I hereby acknowledge receipt of Petitioner's Petition for Expungement and Sealing of Records. I certify that I reviewed the Petition and waive the right to object to said Petition.

I hereby consent to the court entering a Certificate of Compliance and Order of Expungement and Sealing as requested without further hearing.

DATED this _____ day of _____, 20____.

Prosecutor

VICTIM STATUS

Prosecutor will review case and check one of the following boxes:

[] After review of the case, Prosecutor deems there is no victim involved in this case.

[] Prosecutor has identified a victim or victims in the above-mentioned case and has notified him/her/them as to the Petition for Expungement filed by the defendant (petitioner). Victim(s) were notified that they must file objections in writing to the court (and to prosecutor) within 30 days of when prosecutor date-stamps receipt of the Prosecutor's Receipt, Review, Consent and Waiver of Hearing (Form 2) along with copies of Petition and Certificate of Eligibility.

WASHINGTON COUNTY JUSTICE COURT
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Petitioner/Defendant) ORDER FOR EXPUNGEMENT AND
Name: _____) SEALING OF RECORD
Address: _____)
_____) Case No. _____
_____) Caselle Case No. (if any) _____
Date of Birth: _____) Citation/Information No. _____

Pursuant to Utah Code Annotated Section 77-40-107 and 108, the Court hereby makes the following findings and certifies as follows:

1. That petitioner was ☐ cited ☐ arrested/detained on _____(date) by ☐ St. George Police Department or ☐ _____ (law enforcement agency) and/or charges were filed in this court on _____(date) under the above case number;
2. That petitioner has petitioned the court for an order of expungement and sealing; and
3. That petitioner has complied with all statutory requirements for expungement in this case and the Court is satisfied that there are no reasonable objections to Petitioner's petition.

Accordingly, it is **HEREBY ORDERED**:

1. That all records in petitioner's case in the custody of this court, any other court, or any state, county or local entity, agency or official shall be **EXPUNGED AND SEALED** pursuant to Utah Code Annotated Section 77-40-107 and 108.
2. That petitioner shall distribute this order to all affected agencies and officials including this Court, the arresting agency, the booking agency, the prosecutor's office, the Utah Bureau of Criminal Identification, and all interested courts; and
3. That the Utah Bureau of Criminal Identification shall forward a copy of this expungement order to the Federal Bureau of Investigation if information regarding this offense was previously provided to that agency.

DATED this _____ day of _____, 20____.

BY THE COURT:

Justice Court Judge